



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Baggett Transportation Company--Transportation
Overcharges

File: B-230430

Date: April 12, 1989

DIGEST

A carrier filed a supplemental claim for additional charges with the General Services Administration (GSA) on the theory that the articles transported were not "sensitive" within the meaning of the rate tender originally applied, and, therefore, the rate from that tender did not apply. GSA's disallowance of the claim is sustained, since the articles required signature and tally record service, a separate category of articles also specifically covered by the tender, regardless of whether the articles are "sensitive."

DECISION

Baggett Transportation Company requests review of audit action taken by the General Services Administration (GSA). We sustain GSA's action.

GSA disallowed a claim for additional amounts presented by Baggett relating to a shipment transported on Government Bill of Lading (GBL) S-8018028. The GBL describes the articles shipped as 29 packages of torpedo tube mechanisms (firing mechanisms), and it refers to Baggett's rate tender, "BAGT AEF-0020" (Tender 20). The GBL shows that the shipper, the transportation officer, Hawthorne Army Ammunition Plant, Nevada, requested constant surveillance service and signature and tally record service.

Baggett's claim is based on the premise that the rates it originally charged based on Tender 20 were not applicable because firing mechanisms were not among the general categories listed in Tender 20's Block 10B, "Description of Articles," which describes the items to which the tender applies. For this reason Baggett argues it is due an additional amount based on the applicability of higher rates published in a different tariff. GSA's disallowance was based on the contention that the articles transported were

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"declared sensitive by the U.S. Government," a category mentioned in Block 10B. Baggett disagrees stating that the articles were not sensitive as that term is used in the tender. Whether the articles are "sensitive" or not, GSA, in the alternative, contends that Tender 20 is applicable because the shipment required "signature and tally record service."

The pertinent language of Block 10B, showing the categories of articles the tender covers, is as follows:

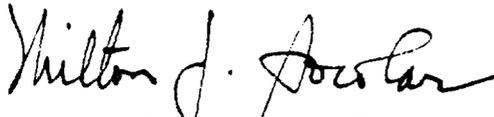
"AMMUNITIONS, EXPLOSIVES OR FIREWORKS,
CLASS A, B, OR C, ARTICLES DECLARED
SENSITIVE BY THE U.S. GOVERNMENT AND
SHIPMENTS REQUIRING SIGNATURE AND TALLY
RECORD SERVICE. . . ."

A report to us from the Department of the Army states that it is their view that the Block 10B description covers three categories of articles, and if the shipment is included in any of the categories, the tender applies. The three categories are (1) ammunitions, explosives or fireworks, Class A, B, C, (2) articles declared sensitive, and (3) shipments requiring signature and tally record service. The Army further states that while the articles transported were not "sensitive,"^{1/} they were "confidential" material, and as such the shipment was subject to the Defense Traffic Management Regulation, DLAR 4500.3. Under DLAR 4500.3, table 34-3 and section 34-21, such material required constant surveillance service, and under section 34-25, signature and tally record service is an integral part of such service. Statements on the GBL shipping order covering this shipment show that constant surveillance service (including signature and tally record) was requested and furnished.

^{1/} The report, from the Staff Judge Advocate, Headquarters, Military Traffic Management Command, states that, based on a review by the Army Office of the Deputy Chief of Staff for Safety, Security, and Intelligence, the article was ordnance, not "sensitive," within the applicable publication, Physical Security of Sensitive Arms, Ammunition, and Explosives, Appendix A, DOD 5100-76-M.

We agree with the Army's interpretation of the tender and hold that the shipment was covered by the tender since it required signature and tally record service.2/

Accordingly, GSA's determination that Tender 20 rates were applicable is correct, and its disallowance of Baggett's claim is sustained.

for 
Comptroller General
of the United States

2/ As the Army points out, any ambiguity in this regard would be construed against the carrier in any event. See Leonard Brothers Trucking Company, Inc. - Reconsideration, B-215958, Feb. 18, 1986.